

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP (Revision 1)**

Amendment 22

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 135 and subparagraphs 247 B, 284 B, 286 C, and 326 B have been amended to include maximum interest rate requirements.

Note: The maximum interest rate requirements are effective **May 3, 2013**.

Subparagraph 224 G has been amended to update the interest rate regulations.

Subparagraph 363 D has been amended to allow for electronic verification for certified mail.

Exhibit 2 has been amended to:

- remove the definition of “average agricultural loan customer”
- add the definition of “certified mail”.

Page Control Chart		
TC	Text	Exhibit
	8-59, 8-60 8-60.5 through 8-60.8 (add) 9-5, 9-6 10-15, 10-16 11-49, 11-50 11-53, 11-54 12-55, 12-56 14-29 through 14-32	1, pages 3, 4 2, pages 3-6

Section 3 Loan Terms, Insurance, Inspections, and Fees

135 Interest Rate Requirements (7 CFR 762.124(a))

A Fixed and Variable Rates

The interest rate on a guaranteed loan or line of credit may be fixed or variable as agreed upon between the borrower and the lender. The lender may charge different rates on the guaranteed and the non-guaranteed portions of the note. The guaranteed portion may be fixed while the unguaranteed portion may be variable, or vice versa. If both portions are variable, different bases may be used.

***--If a variable rate is used, it must be tied to an index or rate specifically agreed to between the lender and borrower in the loan instruments and the rate adjustments must be in accordance with normal practices of the lender for nonguaranteed loans. Upon request, the lender must provide the Agency with copies of its written rate adjustment practices.**

FSA may request copies of lender's written rate adjustment practices if the loan approval official has reason to believe the interest rates are not in line with local lending practices. Rate adjustment practices will be maintained in lender's operational file. See subparagraphs 48 B, 51 B, and 54 B.

B Maximum Interest Rates for Lenders Using Risk-Based Pricing Practices

At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the nonguaranteed portion of a fixed or variable rate OL or FO loan may not exceed the following, as applicable:

- **For lenders using risk-based pricing practices, the risk tier at least one tier lower (representing lower risk) than that borrower would receive without a guarantee. The lender must provide the Agency with copies of its written pricing practices upon request.**

FSA will request a copy of the risk-based pricing practices document and maintain in lender's operational file. FSA will distribute copies of the document to other FSA offices, as appropriate. See subparagraphs 48 B, 51 B, and 54 B.

Note: Lender's pricing practices are strictly confidential and for FSA use only.

The FSA guarantee compensates a lender for much of the risk of loss involved in guaranteed loans. If the lender's rates of interest are based on a risk-based pricing practice, the rate charged an FSA guaranteed borrower must be at least 1 tier lower than the rate the borrower would have been charged without the guarantee, regardless of the guaranteed borrower's equity, collateral, repayment ability, or servicing needs.--*

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

B Maximum Interest Rates for Lenders Using Risk-Based Pricing Practices (Continued)

*--The following table is an example of the risk-based pricing practice.

Risk Rating	Description	Comparable Classification	Pricing and Interest Rate	Definition
1	Highest Quality	Acceptable	WSJP + 1.50%	Highest quality with very minimal risk.
2	Superior Quality			
3	Exceptional Quality			
4	Excellent quality	Acceptable	WSJP + 1.75%	Excellent quality with minimal risk.
5	Strong Quality			
6	Good quality	Acceptable	WSJP + 2.00%	Good quality with minimal risk.
7	Average Quality			
8	Adequate Quality	Acceptable	WSJP + 2.25%	Adequate quality with some risk.
9	Minimally Acceptable Quality			
20	Potentially Weak	OAEM (Other Assets Especially Mention)	WSJP + 2.50%	Assets protected but potentially weak and constitute unwarranted credit risk.
11	Well defined weakness generally well secured and performing	Substandard	WSJP + 2.75%	Assets inadequately protected and possibility of loss if weaknesses are not corrected.
12	Well defined weakness marginally secured with variable performance			
13	Collection in full is in doubt	Doubtful	WSJP + 3.00%	Major weaknesses impose collection or liquidation.
14	Uncollectible	Loss	WSJP + 3.00%	Loss considered uncollectible.

Example: If a customer's risk rating was 8 and the lender requested a guarantee, the interest rate charged would be the same as for a nonguaranteed customer with risk rating of 7.--*

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

***--C Maximum Interest Rates for Lenders Not Using Risk-Based Pricing Practices**

At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the nonguaranteed portion of a fixed or variable rate OL or FO loan may not exceed the following, as applicable:

- **For lenders not using risk-based pricing practices, for variable rate loans or fixed rate loans with rates fixed for less than five years, 650 basis points (6.5 percentage points) above the 3-month LIBOR.**
- **For lenders not using risk-based pricing practices, for loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the 5-year Treasury note rate.**

The lender is not required to tie its guaranteed loan interest rates to 3-month LIBOR or 5-year Treasury, nor is it required that the rate remain below the maximums throughout the term of the loan. This requirement only sets the maximum rate that may be charged to the customer at the time of loan closing or restructuring.

Note: The maximum rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with an interest rate fixed for less than 5 years, regardless of program type (OL or FO), the maximum rate is based on the 3-month LIBOR index.

Loans with interest rate fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

After loan closing, the authorized agency official will review loan closing documents, verify the interest rate charged the guarantee customer does not exceed the maximum rate, and document in the FSA running record.

To obtain rates for each index, the authorized agency official can access the GLS Add Loan Screen and click the 3-month LIBOR or 5-year Treasury note rate. The links will open the following Web pages:

- 3-month LIBOR at http://mortgage-x.com/general/indexes/historical_wsj_libor.asp, scroll down to find year and date needed
- 5-year Treasury at <http://www.federalreserve.gov/releases/h15/data.htm>, scroll down to 5-year Treasury constant maturities and click on the business day.--*

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

***--C Maximum Interest Rates for Lenders Not Using Risk-Based Pricing Practices (Continued)**

To access the training:

- go to FSA Intranet at <http://fsaintranet.sc.egov.usda.gov/fsa/>
- under “Resources”, CLICK “**FSA Applications**”
- under “Farm Loan Programs”, CLICK “**Farm Loan Programs Systems**”
- under “Informational Links”, CLICK “**Presentations**”
- under “Training Materials”, CLICK “**GL Interest Rate Training Presentation**”.

Note: The 5-yr Treasury note rate may also be listed as Treasury Constant Maturities as published on the Federal Reserve web site.

The following examples are provided to illustrate how to determine the maximum interest rate.

Example 1: Lender closes a 4-year GOL. The rate is fixed at 7.5% on the date loan closes. The 3-month LIBOR rate on date loan closes is 2.5% and the 5-year Treasury rate is 2.0%.

The maximum rate would be 9.0% (3-month LIBOR rate 2.5% plus maximum spread 6.5% = 9%).

In this example, the lender’s rate does not exceed the maximum rate and; therefore, meets the limitation.

Example 2: Lender closes a 7-year GOL. The rate is fixed for the first 3 years at 8% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on date loan closes is 2.0% and the 5-year Treasury rate is 1.75%.

The maximum rate would be 8.5% (3-month LIBOR rate 2.0% plus maximum spread 6.5% = 8.5%).

In this example, the lender’s rate does not exceed the maximum rate and; therefore, meets the limitation.

Example 3: Lender closes a 20-year GFO. The rate is fixed for the first 5 years at 7.0% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on date loan closes is 2.0% and the 5-year Treasury rate is 1.0%.

The maximum rate would be 6.5% (5-year Treasury rate 1.0% plus maximum spread 5.5% = 6.5%).

In this example, the lender’s rate exceeds the maximum rate and; therefore, does not meet the limitation.--*

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

***--D Maximum Interest Rate When 3-Month LIBOR Falls Below 2 Percent**

In the event the 3-month LIBOR is below 2 percent, the maximum rates specified in subparagraphs B and C do not apply. In that case, at the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the nonguaranteed portion of an OL or FO loan may not exceed 750 basis points above the 3-month LIBOR for variable rate loans and 650 basis points above the 5-year Treasury rate for fixed rate loans.

The maximum interest rate may be increased by 100 basis points during periods of unusual market conditions. When the 3-month LIBOR falls below 2 percent, for lenders who do not use risk-base pricing practices, the maximum interest rate shall not exceed the following.

- For variable rate loans or fixed rate loans with rates fixed for less than 5 years, 750 basis points (7.5 percentage points) above the 3-month LIBOR.
- For loans with rates fixed for 5 or more years, 650 basis points (6.5 percentage points) above the 5-year Treasury note rate.

Note: The rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with interest rate fixed for less than 5 years, regardless of program type (OL or FO), the maximum rate is based on the 3-month LIBOR index. For loans with interest rates fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

The following examples are based on the 3-month LIBOR below 2.0%.

Example 1: Lender closes a 15-year GFO. The rate is fixed for the first 3 years at 8.75% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on the date the loan closes is 1.0% and the 5-year Treasury rate is 0.75%.

The maximum rate would be 8.5% (3-month LIBOR rate 1.0% plus maximum spread 7.5% = 8.5%).

In this example, the lender's rate does exceed the maximum rate and; therefore, does not meet the limitation.--*

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)***--D Maximum Interest Rate When 3-Month LIBOR Falls Below 2 Percent (Continued)**

Example 2: Lender closes a 20-year GFO. The rate is fixed for the first 5 years at 7.0% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on the date the loan closes is 1.5% and the 5-year Treasury rate on the date loan closes is 1.0%.

The maximum rate would be 7.5% (5-year Treasury rate 1.0% plus maximum spread 6.5% = 7.5%).

In this example, the lender's rate does not exceed the maximum rate and; therefore, meets the limitation.

E Interest Charges

Interest must be charged only on the actual amount of funds advanced and for the actual time the funds are outstanding. Interest on protective advances made by the lender to protect the security will be charged at the note rate limited to subparagraph B, C, or D.--*

Interest on protective and emergency advances, made by the lender to protect the security, must not exceed the rate specified in the loan instruments. The charge of interest on legal fees, broker's fees, and other expenses paid in conjunction with bankruptcy, liquidation, or other servicing is not covered by the guarantee.

224 General Rules (7 CFR 762.150(b)) (Continued)

F Maximum Amount of Assistance

The maximum total guaranteed OL debt on which a borrower can receive interest assistance is \$400,000, regardless of the number of guaranteed loans outstanding. This is a lifetime limit.

In the case of a borrower with multiple guaranteed loans with one lender, interest assistance can be applied to each loan, only to one loan or any distribution the lender selects, as necessary to achieve a feasible plan, subject to subparagraph 224 C.

As of June 8, 2007, applicants, including entity members, are limited to a total of \$400,000 in loans receiving IA over their lifetime. However, IA loans governed by FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's that are executed before June 8, 2007, are not included in this limitation.

Once an FSA-2221 is executed on a loan, the loan amount is subtracted from the \$400,000 lifetime limit. Repayment of an IA loan in part or in full will not permit that amount to be obligated again. Subsequent advances on lines of credit are not counted as additional obligations.

Requests are subject to the overall guaranteed loan limits as published in subparagraph 244 A. Lenders may request a combination of subsidized and non-subsidized funds if the borrower's credit needs exceed \$400,000. If this occurs, FSA will split the request into 2 obligations and issue two Conditional Commitments. The lender will close the loans using 2 promissory notes and FSA will issue a Loan Guarantee for each note.

The terms of both loans should be consistent and in compliance with the limitations outlined in subparagraph E. The lender may choose to apply payments pro-rata between the 2 loans or according to the lender's normal banking practices.

224 General Rules (7 CFR 762.150(b)) (Continued)

G Rate of Interest

***--The lenders rate of interest will be set according to 7 CFR 762.124(a).**

As outlined in paragraph 135, if a variable rate is used, it must be tied to a rate specifically agreed to between the lender and borrower in the loan instruments. Variable rates may change according to the normal practices for the lender, but the frequency of change must be specified in the loan or LOC instrument. The rate cannot exceed the maximum rate allowed on date of closing.--*

The lender will reduce the interest rate charged the borrower's account by at least the amount of IA.

H Maximum Time for Which IA is Available for Non-Beginning Farmers

A borrower may only receive interest assistance for one 5-year period. The term of the interest assistance agreement executed under this section shall not exceed 5 consecutive years from the date of the initial agreement signed by the applicant, including any entity members, or the outstanding term of the loan, whichever is less. This is a lifetime limit.

As of June 8, 2007, all new FSA-2221's (including those for beginning farmers) will expire no more than 5 years from the date of the first IA agreement signed by the applicant. Agreements on subsequent IA loans, executed within that 5-year period will also expire no more than 5 years from the date of the first FSA-2221 signed by the applicant. FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's in effect before June 8, 2007, are not impacted by this 5-year limitation.

FSA will document the effective date of the first FSA-2221 in GLS Loan View Screen for each party that will sign the notes. The 5-year period starts on the date of the first FSA-2221, executed by the applicant (including entity members) and does not stop, even if the loan is paid in full. A review of the borrower's agency history will be used to determine which entity members, if applicable, have previously received IA.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)**B FSA Actions**

After FSA receives the information from the lender detailed in subparagraph A, the authorized agency official must take the following actions before executing the Loan Guarantee to guarantee the loan.

- Review the Conditional Commitment to ensure that the loan closed according to the agreed conditions.
- Review the executed loan agreement and promissory note and compare with the Conditional Commitment to ensure consistency with the agreed upon terms and personal liability of entity members.
- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The authorized agency official should take additional care to review the Conditional Commitment, the Loan Guarantee, the loan agreement, and promissory notes to ensure the following:
 - *--principal amount and interest rate are consistent and interest rate does not exceed the maximums established in paragraph 135--*
 - closing date on the note and guarantee are consistent
 - borrower's name, lender's name, and FSA contact information are consistent on all documents.
- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

248 Issuing the Loan Guarantee**A Action**

Once the requirements of paragraph 247 have been met, the authorized agency official may prepare and issue the Loan Guarantee. The original Loan Guarantee should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to FSC, FLOO

--The guarantee fee will be processed through the National Receipts and Receivable System using applicable collection type. See 3-FI for additional guidance. The authorized agency-- official shall make every attempt to review the closing documents before processing the guarantee fee. However, FSA shall adhere to the timeframes in 3-FI to process the fee even in situations when the authorized agency official is not able to review the closing documents timely. The Loan Closing Transaction shall be input through GLS Add Loan Screen.

C Refund of Guarantee Fee

The guarantee fee is not refundable once the Loan Guarantee has been issued and loan funds disbursed. However, if the fee was processed before reviewing closing documents and it is later determined that the guarantee cannot be issued, the fee may be refunded to the lender.

The authorized agency official will forward a memorandum to the State Office with the reasons FSA was not able to issue the Loan Guarantee and request that the fee be refunded. If approved, the State Office will FAX the memorandum to FSC, FLOO, requesting that the fee be refunded.

A request for a guarantee fee refund for any other reason shall be forwarded to the National Office for approval.

249 Deobligation of Loan Funds**A Deobligation of Funds**

Under certain circumstances, the authorized agency official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the authorized agency official must execute FSA-2072 to cancel the actual obligation.

B FAXing FSA-2072

FSA-2072 should be FAXed to the State Office that will process the cancellation or deobligation through GLS.

283 Emergency Advances (7 CFR 762.146(a)) (Continued)**C FSA Response to Request for Emergency Advance**

The authorized agency official:

- shall review a SEL's and CLP lender's request for an emergency advance and notify the lender of FSA's decision in a timely manner
- should make every effort to respond to a request for an emergency advance within several days of receiving the lender's request.

284 Interest Rate Changes (7 CFR 762.146(d))**A Overview**

The lender may change the interest rate on a performing (nondelinquent) loan only with the borrower's consent.

B Changing Interest Rates

A lender must follow the following procedures to change the interest rate.

- **If the loan has been sold on the secondary market, the lender must repurchase the loan according to subparagraph 375 B or obtain the holder's written consent.**
- **To change a fixed rate of interest to a variable rate of interest or vice versa, the lender and the borrower must execute a legally effective amendment or allonge to the existing note.**
- **If a new note is taken, it will be attached to and refer to the original note.**
- **The lender will inform FSA of the rate change.**

--The new interest rate may not exceed the maximums established in paragraph 135.--

The authorized agency official shall update the rate change in GLS on the Loan Maintenance Screen.

Note: Lenders do **not** need to seek FSA concurrence to change an interest rate.

285 Release of Liability Upon Withdrawal (7 CFR 762.146(b))

A General Requirements

An individual who is obligated on a guaranteed loan may be released from liability by a lender with the written consent of the Agency provided the following conditions have been met.

- **The individual to be released has withdrawn from the farming operation.** The lender must submit a narrative outlining who is to be released and why.
- **A divorce decree and final property settlement does not hold the withdrawing party responsible for the loan payments.** A copy of the divorce decree must be submitted with the lender's request. The lender must document that release of divorced borrowers is a common practice carried out in their nonguaranteed loan portfolio.
- **The withdrawing party's interest in the security is conveyed to the individual or entity with whom the loan will be continued.**
- **The ratio of the amount of debt to the value of the remaining security is less than or equal to .75, or the withdrawing party has no income or assets from which collection can be made.**
- **Withdrawal of the individual does not result in legal dissolution of the entity to which the loans are made. Individually liable members of a general or limited partnership may not be released from liability. Partners, parents, cosigners, stockholders, and entity members may often be released from liability.** However, when the guaranteed loan is made to individuals farming as a partnership, and each partner is fully liable, release of 1 partner would terminate the partnership and the existence of the entity to which the loans were made. The lender must document that release of withdrawing members is common in their unguaranteed portfolio and all other conditions in this paragraph are met.
- **The remaining liable party projects a feasible plan (see § 762.102(b)).** The lender must submit a cash flow projection for the remaining liable party with the request for release. A release will not be approved when a loss is probable.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

B Request for Consolidation

SEL's must submit a feasible plan to FSA for concurrence before consolidating loans. CLP and PLP lenders may consolidate loans as long as the requirements of this paragraph are met.

C Lender Actions to Consolidate Loans

A new note or line of credit agreement will be taken. The new note or line of credit agreement must describe the note or line of credit agreement being consolidated and must state that the indebtedness evidenced by the note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

The interest rate for a consolidated OL loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for
--each type of loan. The new interest rate may not exceed the maximums established in paragraph 135.--

The Agency approves the consolidation by executing a modification of guarantee. The modification will indicate the consolidated loan amount, new terms, and percentage of guarantee, and will be attached to the originals of the guarantees being consolidated. If loans with a different guarantee percentage are consolidated, the new guarantee will be at the lowest percentage of guarantee being consolidated.

Any holders must consent to the consolidation, or the guaranteed portion must be repurchased by the lender.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)**D FSA Response to Consolidation Request**

The authorized agency official must approve of a SEL request for consolidation. When SEL submits a request for a loan consolidation, the authorized agency official should verify the following:

- only OL's and LOC's are being considered for consolidation
- the consolidation does not cause the loan principal to exceed program loan limitations
- the consolidation does not adversely affect the value of the security and the lender's security position.

The authorized agency official must complete FSA-2236 based on the information received from SEL and submit it to FSC, FLOO, along with a memorandum describing which loans were consolidated.

If a PLP or CLP lender consolidates loans:

- copies of documents will be obtained
- compliance with regulations will be verified through annual file reviews
- FSA-2236 is completed and submitted to FSC, FLOO, along with a memorandum describing which loans were consolidated.

Section 3 Restructuring Options**326 Rescheduling of Debt (7 CFR 762.145)****A Overview**

Rescheduling involves changing the payment terms of a loan, such as a change in the interest rate or term in years of a note or LOC agreement. The new repayment schedule must be based on the borrower's ability to repay over the maximum loan term or life of the security. A loan does not have to be in default before being rescheduled.

B General Requirements for Rescheduling

[7 CFR 762.145(c)] Payments will be rescheduled within the following terms:

- **FO and existing SW loans may be amortized over the remaining term of the note or rescheduled with an uneven payment schedule over a period not to exceed 40 years from the date of the original note**
- **OL notes must be rescheduled over a period not to exceed 15 years from the date of the rescheduling. An OL line of credit must be rescheduled over a period not to exceed 7 years from the date of the rescheduling or 10 years from the date of the original note, whichever is less. Advances cannot be made against a line of credit loan that has had any portion of the loan rescheduled.**
- **CL will be amortized over the remaining term or rescheduled with an uneven payment schedule. The maturity date cannot exceed 30 years from the date of the original note.**

The interest rate for a rescheduled loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan.

--The interest rate on both the guaranteed portion and the nonguaranteed portion of OL or FO may not exceed the maximums established in paragraph 135, 762.124(a) requirements.--

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

C Required Lender Actions

[7 CFR 762.145(c)] A new note is not necessary when rescheduling occurs. However, if a new note is not taken, the existing note or line of credit agreement must be modified by attaching an “allonge” or other legally effective amendment, evidencing the revised repayment schedule and any interest rate change. If a new note is taken, the new note must reference the old note and state that the indebtedness evidenced by the old note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

To request a rescheduling, SEL lenders must submit documentation according to the *--requirements listed in paragraph 312 and obtain FSA approval before implementation of the action. CLP and PLP lenders must submit documentation according to requirements listed in paragraph 312 **after** rescheduling a loan.--*

D Capitalization of Interest

[7 CFR 762.145(b)] The lender may capitalize the outstanding interest when restructuring the loan as follows:

- **As a result of the capitalization of interest, a rescheduled promissory note may increase the amount of principal the borrower is required to pay. However, in no case will such principal amount exceed the statutory loan limits contained in § 761.8.**
- **When accrued interest causes the loan amount to exceed the statutory loan limits, rescheduling may be approved without capitalization of the amount that exceeds the limit. Noncapitalized interest may be scheduled for repayment over the term of the rescheduled note.**

In a restructuring action, if capitalization of interest will cause the increased combined *--principal of the borrower’s outstanding OL’s, FO’s, and CL’s to exceed the limits outlined--* in subparagraph 244 A, the portion of the interest that would cause the loan to exceed the loan limit cannot be capitalized. Excess interest will be guaranteed and the lender may schedule the repayment over the term of the rescheduled note. If payments are received on the loan after the restructuring that exceed the regularly scheduled installment, excess payments may be applied to the non-capitalized interest first.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

B Guaranteed Final Loss Claim Payments Not Subject to Offset

Final loss claim payments for borrowers who executed FSA-1980-25 with a revision date of July 27, 1999, or earlier, or FSA-1980-28 with a revision date of April 7, 1999, or earlier, shall not be offset.

Loans approved using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date and Application for Guarantee or Preferred Lender Application that are discharged in bankruptcy, will establish a Federal debt, but generally are not subject to offset. Any case where a final loss claim was paid after a Chapter 7 discharge should be processed as follows:

- all pertinent information, such as loss claim and documentation on the bankruptcy including the discharge order, is to be provided to the Regional OGC, requesting their opinion as to whether or not offset can be pursued
- document the case file with OGC's recommendation:
 - if Regional OGC's opinion is that the loan is not subject to offset, the debtor shall be removed from referral to IAO and TOP through the GLS maintenance screens and debts discharged in bankruptcy will be written off upon receipt of the discharge order; SED shall FAX or mail a copy of the discharge order along with a memorandum requesting that the debt be written off to * * * FLOO
 - if Regional OGC's opinion is that the loan is subject to offset, then immediately follow the requirements of subparagraphs 363 D through G.

Notes: Any debt reaffirmed under Chapter 7 bankruptcy on which a final loss claim is later paid, is considered a Federal debt and shall be subject to offset.

In a reorganization bankruptcy, if the confirmed plan is not successfully completed and the bankruptcy is dismissed, the payment of a final loss claim will be considered a Federal debt and shall be subject to offset.

C Payments Not Subject to Offset

The following payments are not subject to offset:

- Federal crop insurance indemnity payments
- the initial payment for planting expenses under certain conservation programs
- program payments ineligible for offset.

Payments will not be offset when the authorized agency official determines that it is not in the best interest of the Government.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

D Debtor Notification of FSA's Intent to Offset

Immediately upon confirmation of a final loss claim payment, the authorized agency official shall provide the debtor and any co-debtors notification of intent to offset using Exhibit 17, according to this subparagraph and 7 CFR Part 3.

Exhibit 17 must be sent to debtors by certified mail. If Exhibit 17 is returned, the authorized agency official shall use first class mail or personal delivery.

The date Exhibit 17 was received by the debtor and/or co-debtor will be entered in the "Notified Date" field using the GLS Debt Offset Maintenance Screen for:

- tracking
- referral of debt for offset.

***--Note:** GLS will be updated for the debtor and/or co-debtor with the date of the electronic verification or return receipt of the debtor notification of FSA's intent to offset that is sent by certified mail to a debtor's last known address. This date shall be entered in the "Demand Letter" field using the GLS Debt Offset Maintenance Screen. A copy of the electronic verification will be placed in the case file.--*

The authorized agency official shall provide written notification to debtors a minimum of:

- 30 calendar days before affecting non-centralized administrative offset and IAO
- 60 calendar days before affecting TOP.

If a USDA payment will be made to a debtor within 30 calendar days of the payment of a final loss claim and FSA finds that failure to take the offset would substantially prejudice the Government's ability to collect the debt, FSA shall notify the debtor that FSA will/has offset the payment due using Exhibit 18.

Exhibit 18 shall:

- contain the reasons FSA had to affect IAO and non-centralized administrative offset
- be sent to the debtor as soon as possible.

The debtor's pro rata share of entity payments will be offset according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.106 after the nondebtor entity members have been notified using Exhibit 19 or 20, as appropriate.

Note: The authorized agency official shall request written concurrence from SED before sending Exhibit 18 or 20.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)****D Debtor Notification of FSA's Intent to Offset (Continued)**

Authorized agency officials shall follow RD Instruction 1951-C, section 1951.103 subparagraphs (c) through (g) to handle debtor requests received as a result of the receipt of Exhibits 17 through 20.

Debtors proposing an agreement to repay the debt as an alternative to offset must include the full amount of the Federal debt. The Federal debt must be paid within a short period of time.

E Salary Offset

The authorized agency official shall determine whether collection by salary offset is feasible according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.111.

F Referral of Debt for IAO Offset

The authorized agency official shall refer debtors:

- immediately for IAO and non-centralized administrative offset if Exhibit 18 or 20 was sent
- for IAO and non-centralized administrative offset 30 calendar days after sending Exhibit 17 or 19, and/or after the conclusion of a review or appeal.

The authorized agency official must complete the debtor's and/or co-debtor's IAO referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset.

Note: Debtors who are ineligible for IAO or who later become ineligible for IAO shall be removed from referral in GLS on the Debt Offset Maintenance Screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

G Referral of Debt to TOP

The authorized agency official shall refer debtors to TOP 60 calendar days after:

- Exhibit 17 or 18 was sent
- the conclusion of a review or appeal.

--The authorized agency official must complete the debtor's TOP referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset. Once the-- information is entered, debtors will be programmatically referred according to the established Treasury quarterly referral schedule.

Once the debt is referred for TOP, * * * FLOO will send Exhibit 21. The date of Exhibit 21 will be shown on the debtor's GLS maintenance screen.

Note: Debtors who are ineligible for TOP or who later become ineligible for TOP shall be *--removed from referral in GLS on the Debt Offset Maintenance Screen.--*

H State Office Responsibility

SED shall ensure that FSA employees responsible for servicing FLP guaranteed loans notify all County Offices where the debtor receives Federal payments that these payments are to be offset.

DD shall ensure that all County Offices are updated monthly on debtors whose payments are eligible to be offset.

Note: Management reports for debts currently referred for IAO and TOP are available in GLS.

IAO and TOP collections taken by FSA will be discontinued when a guaranteed borrower and/or co-borrower are called to report for induction or military service. Co-borrowers associated with the debt must also be suspended from offset collections in GLS in an effort to reduce hardship on the family. Offsets should not be taken during the period of active duty and 3 months thereafter. Any collections received as a result of offset, **after** the date the borrower and/or co-borrower were called to active duty, will be refunded. State Offices shall make refund request to * * * FLOO.

Offsets shall be suspended by State Offices by accessing the GLS Debt Offsets Maintenance Screen and:

- selecting the Reason Deleting as "Other"
- inputting the Why Agency Deleting as "National Defense Act"
- inputting the delete date.

Note: This information should be entered for both IAO and TOP.

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2250	FSA Purchase of a Guaranteed Loan Portion		375
FSA-2251	Lender's Guaranteed Loan Payment to USDA		376
FSA-2252	Farm Loan Programs Guaranteed Writedown Worksheet		328, Ex. 12
FSA-2253	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341, Ex. 12
FSA-2254	Guaranteed Loan Report of Loss		136, 288, 328, 342, Part 14, 376, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD 1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD 1956-1	Application for Settlement of Indebtedness		363
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LIBOR	London Interbank Offered Rate	135
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Re delegations of Authority

This table lists the re delegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

* * *

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are typically treated as normal income security unless the borrower does not have replacements that will keep the numbers and production up to planned levels. However, if the borrower plans to make a significant reduction in the foundation livestock herd or flock, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer

Beginning farmer is an individual or entity who:

- (1) Meets the loan eligibility requirements for a direct or guaranteed OL, FO, or CL loan, as applicable;**
- (2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;**
- (3) Will materially and substantially participate in the operation of the farm:**
 - (i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.**
 - (ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;**
- (4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;**

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Beginning Farmer (Continued)

(5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the median acreage of the farms in the county where the property is located. If the farm is located in more than one county, the median farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the median farm acreage of the county where the major portion of the farm is located will be used. The median county farm acreage will be determined from the most recent Census of Agriculture;

(6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

(7) In the case of an entity:

- (i) All the members are related by blood or marriage; and
- (ii) All the members are beginning farmers.

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

Cash Flow Budget

Cash flow budget is a projection listing of all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a "monthly cash flow budget."

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

*--Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

Notes: Certified mail service provides the following:

- electronic verification that an article was delivered or delivery attempt was made
Note: If the item was delivered, the electronic verification provides the date, time, and location of delivery.
- proof of delivery record (copy of the recipient's signature) that is kept at the Post Office for 2 years after mailing. If needed, the signature proof can be requested after mailing by purchasing the "Return Receipt After Mailing" service.

"Return Receipt" is an additional feature that may be purchased but is **not** required.--*

Chattel Security

Chattel security is property that may consist of, but is not limited to: crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil Action

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Compromise

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Conditional Commitment

Conditional commitment is the Agency's commitment to a lender that the material the lender has submitted is approved subject to the completion of all listed conditions and requirements.

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding FLP debt.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Conservation Loan (CL)

CL means a loan made to eligible applicants to cover the costs to the applicant of carrying out a qualified conservation project.

Conservation Plan

Conservation plan means an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes *--advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

Conservation Practice

Conservation practice means a specific treatment, such as a structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed. Conservation practices are contained in the appropriate NRCS Field Office Technical Guide (FOTG), which is based on the National Handbook of Conservation Practices (NHCP).

Conservation Project

Conservation project means conservation measures that address provisions of a conservation plan or Forest Stewardship Management Plan.--*

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Construction

Construction is work such as erecting, repairing, remodeling, relocating, adding to, or salvaging any building or structure, and the installing, repairing, or adding to heating and electrical systems, water systems, sewage disposal systems, walks, steps, and driveways.

Controlled

Controlled is when a director or an employee has more than a 50 percent ownership in an entity or, the director or employee, together with relatives of the director or employee, have more than a 50 percent ownership.

Controlled Substance

Controlled substance is the term as defined in 21 U.S.C. 812.